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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,292	01/29/2004	Hai Cong	CS03-016	4993
7590	11/04/2004		EXAMINER	
STEPHEN B. ACKERMAN 28 DAVIS AVENUE POUGHKEEPSIE, NY 12603			GURLEY, LYNNE ANN	
			ART UNIT	PAPER NUMBER
			2812	

DATE MAILED: 11/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/767,292	CONG ET AL.
	Examiner	Art Unit
	Lynne A. Gurley	2812

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 29 January 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-32 is/are pending in the application.  
 4a) Of the above claim(s) 31 and 32 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-30 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

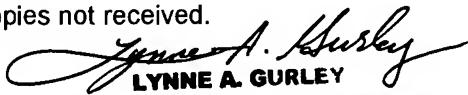
#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 29 January 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.



LYNNE A. GURLEY

PRIMARY PATENT EXAMINER

TC 2800, AU 2812

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 3/29/04.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of claims 1-30 in the reply filed on 8/11/04 is acknowledged. The traversal is on the ground(s) that the method claims use the product claims and vice versa; the field of search is coextensive; and, speculative and insufficient reasoning to support the additional cost of a second patent application. This is not found persuasive because of the reasons given in the original restriction requirement. The process as claimed can be used to make another and materially different product in which the materials used for the HM1/HM2/IMD stack are different. The field of search is not co-extensive. The product claims are searchable in class 257, whereas the method claims are searchable in class 438. Therefore, the Examiner finds that the reasons given for restriction are sufficient, not merely speculative and, clearly able to support subject matter, drawn towards the non-elected invention, in a second patent application.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 31-32 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 8/11/04.

***Information Disclosure Statement***

3. The information disclosure statement (IDS) submitted on 3/29/04 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

***Specification***

4. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claims 1, 9 and 20 recite the limitation "the top intermetal dielectric layer" in lines 15-16, lines 16-17 and, lines 17-18, respectively. There is insufficient antecedent basis for this limitation in the claim.

Also, in claims 1, 9 and 20, in step (f), the limitation: "coating with a photoresist material, forming a bottom anti-reflective coating..." is indefinite, in that it appears as if there

are two separate steps of coating with a photoresist material and forming a bottom anti-reflective coating, when really, the photoresist material is coated to form a bottom anti-reflective coating.

Additionally, in claims 1, 9 and 20, in step (f), the limitation “the via opening” is indefinite in that it is not clear which via opening is being referenced, since in step (e) there are several via openings being formed.

Claims 5, 13 and 24 are unclear and indefinite in their language. The bi-layered hard mask is referenced, yet the IMD is introduced and in general, the claims need clarification.

Claims 6, 14 and 25 are unclear and indefinite in that they refer to “said photoresist material forming a bottom anti-reflective coating”, when the photoresist material in the independent claims is not stated as forming the bottom anti-reflective coating.

#### *Claim Rejections - 35 USC § 102*

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by Weidman et al. (US 2003/0176058, dated 9/18/03, filed 3/18/02).

Weidman shows the method as claimed in figures 1A-1H and corresponding text, with substrate 2 including insulating layer 6 with embedded conductor 4, IMD 16, hard masks 20 and 22, via opening 32 with photoresist 42 and BARC 40. The hard mask and IMD layers are

patterned and etched to form open via and trench openings (figs. 1E-1H) for subsequent conducting metal fill.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

12. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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13. Claims 5-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weidman et al. (US 2003/0176058, dated 9/18/03, field 3/18/02).

Weidman shows the method substantially as claimed, and as described in the preceding paragraph.

Weidman lacks anticipation only in not explicitly teaching the thicknesses of layers, and some materials of the IMD/hard mask stack, the etching formula, repeating the steps to form multiple layers of interconnect, cu seed layer in the trench and via openings, forming excess copper metal over the copper seed layer and then planarizing the excess copper, and, MOSFET CMOS memory and logic devices.

It would have been obvious to one of ordinary skill in the art to have had the claimed ranges of thicknesses of layers, and the claimed materials of the IMD/hard mask stack, the etching formula, to have repeated the steps to form multiple layers of interconnect, to have had a cu seed layer in the trench and via openings, to have formed excess copper metal over the copper seed layer and then planarized the excess copper, and, to have had MOSFET CMOS memory and logic devices, in the method of Weidman, with the motivation that these parameters are within the scope of conventional processing parameters and well known to those of ordinary skill in the art. The cu seed layers and planarization of excess cu are also well known processing steps for cu interconnect technology. Additionally, the inclusion of MOSFET CMOS memory and logic devices in the substrate beneath the interconnect is conventional as well and obvious to one of ordinary skill in the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynne A. Gurley whose telephone number is 571-272-1670. The examiner can normally be reached on M-F 7:30-4:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Niebling can be reached on 571-272-1679. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lynne A. Gurley  
Primary Patent Examiner  
TC 2800, Art Unit 2812

LAG  
November 1, 2004